



PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q59816

RECEIVED

Tony MOUTAUX, et al.

JAN 23 2004

Appln. No.: 09/616,910

Group Art Unit: 2635

Technology Center 2600

Confirmation No.: 7028

Examiner: Vernal U. BROWN

Filed: July 14, 2000

For: TELECOMMUNICATION SYSTEM WITH DOWNLOADABLE INTERFACE, AS
WELL AS CONTROLLER, AS WELL AS DEVICE, AS WELL AS REMOTE
CONTROL, AS WELL AS METHOD

SUBMISSION OF APPELLANT'S BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Submitted herewith please find an original and two copies of Appellant's Brief on Appeal. The USPTO is directed and authorized to charge the statutory fee of \$330.00, and all other required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,

Stan Torgovitsky

Registration No. 43,958

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 21, 2004



#16 Appeal Brief
2/2/04
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Docket No: Q59816

RECEIVED

Tony MOUTAUX, et al.

JAN 23 2004

Appln. No.: 09/616,910

Group Art Unit: 2635

Technology Center 2600

Confirmation No.: 7028

Examiner: Vernal U. BROWN

Filed: July 14, 2000

For: TELECOMMUNICATION SYSTEM WITH DOWNLOADABLE INTERFACE, AS
WELL AS CONTROLLER, AS WELL AS DEVICE, AS WELL AS REMOTE
CONTROL, AS WELL AS METHOD

APPELLANT'S BRIEF ON APPEAL UNDER 37 C.F.R. § 1.192

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 1.192, the following comprises the Appellant's Brief on Appeal from the rejection dated April 21, 2003, wherein claims 1-10 were finally rejected. This Appeal Brief is filed in triplicate and is accompanied by a Submission which includes the required appeal fee set forth in 37 C.F.R. §1.17(f). Appellant's Notice of Appeal was filed on October 21, 2003. Therefore, a Petition for Extension of Time (one month - with fee) is filed herewith. Accordingly, the present Appeal Brief is timely filed.

01/22/2004 MDEWESS1 00000126 194000 09616910

01 FC:1402 330.00 DA

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

I. REAL PARTY IN INTEREST

Appellant respectfully submits that the above-captioned application is assigned in its entirety to ALCATEL, a company organized under the laws of France.

II. RELATED APPEALS AND INTERFERENCES

Appellant states that, upon information and belief, Appellant is not aware of any co-pending appeal or interference which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

This is an appeal from the rejection dated April 21, 2003, wherein claims 1-10 were finally rejected (see final Office Action dated April 21, 2003).

The present application was filed on July 14, 2000 with claims 1-10. Claims 4-6 were amended in the Preliminary Amendment filed July 14, 2000 with the application. Claims 1-3 and claims 7-10 were amended, and claims 4-6 were further amended in the Amendment filed February 5, 2003. No amendments were made to the application after the February 5, 2003 Amendment.

Accordingly, claims 1-10 (see attached Appendix) are the claims currently on appeal, from the final rejections as set forth in the Office Action dated April 21, 2003.

IV. STATUS OF AMENDMENTS

All of the Amendments listed in section III above have been entered. No Amendments were filed after the final Office Action dated April 21, 2003.

V. SUMMARY OF THE INVENTION

Appellant's invention is in the field of telecommunication systems where a controller coupled to a network generates at least one device-signal destined for at least one device for controlling operation of said at least one device. The embodiments of Appellant's claimed invention define a system, a controller, a remote control, and a method for controlling the system, which comprise unique combinations of features.

With regard to the system, Appellant's invention provides a controller 5 coupled to a network. The controller includes a controller-generator 53 which generates at least one device-signal destined for at least one device, e.g., device 1, 2, 3 and/or 4, for controlling operation of this device. Each of the devices 1, 2, 3 and 4 coupled to the controller has a device-receiver which receives at least one device-signal from the controller. The controller also includes a transceiver 50 which sends to a remote control unit 6 an interface in response to a received trigger-signal. The remote control unit 6 includes a control-unit-transceiver 60, which receives the interface sent by the controller, and a control-unit-memory 62 for storing various interfaces including the received interface. (See Appellant's Figure and specification at pages 7 and 8.)

A specific implementation of the Appellant's system provides a trigger-signal which includes an identification-code for identifying a user of the system. The identification code may

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

be added by, for example, a control-unit-processor in response to a user having touched a fingerprint detector coupled to the control-unit-processor 61. As a result, user-specific interfaces are downloaded to the remote control unit. (See Appellant's specification, pages 13 and 14.)

Another implementation of the Appellant's system (or controller), provides a trigger-signal which includes a code for indicating which device is to be controlled so that a specific device interface is downloaded to the remote control unit 6. (See Appellant's specification, page 14.)

Yet another implementation of the Appellant's system provides within controller 5, a controller-detector (e.g., software implemented via controller processor 51 and controller-memory 52) for detecting an interface-amendment, whereby controller-transceiver 50 sends a request-signal destined for the remote control unit 6. The control-unit-transceiver 60 receives the request-signal and sends a trigger-signal in response to the receipt of the request-signal, thereby allowing the interface-amendment to be downloaded to the remote control unit 6. (See Appellant's specification, page 14.)

With regard to the controller, Appellant's invention provides a controller 5, which is coupled to a network and is for use in a telecommunication system. Controller 5 includes a controller-generator 53 which generating at least one device-signal destined for at least one device 1, 2, 3 or 4 coupled to the controller. Controller 5 also includes a controller-transceiver for receiving a trigger-signal and sending an interface to a remote control unit 6 in response to the received trigger-signal. (See Appellant's specification, page 8.)

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

With regard to the remote control unit, Appellant's invention provides a remote control unit 6, which remotely controls at least one device 3 or 4 via a wireless connection 9 and communicates with a controller 5, via signals 70-72, which is coupled to a network. The remote control unit includes a control-unit-transceiver 60, which sends control-signals for remotely controlling at least one device 3 or 4 and receives an interface originating from the controller 5, and a control-unit-memory 62 for storing the received interface. (See Appellant's specification, page 8.)

With regard to controlling a telecommunication system which includes controller 5, devices 1, 2, 3 or 4 and a remote control unit 6, Appellant's invention provides a method where an interface from the controller is sent to the remote control unit in response to a trigger-signal. The interface is received and stored in the remote control unit. (See Appellant's specification, pages 8 and 9.)

VI. ISSUE

Whether claims 1-10 are unpatentable over the combination of Pope and Goldstein under 35 U.S.C. §103(a).

VII. GROUPING OF CLAIMS

It is noted that the rejected independent claims 7, 9 and 10 stand or fall together with independent claim 1. Dependent claims 3 and 5 do not stand or fall together with their independent base claim 1, but recite separately patentable features as set forth below (see pages

11 and 12 of Section VIII). Claims 2, 4, 6 and 8 stand or fall together with their independent base claim 1.

VIII. ARGUMENTS

1. Claims 1-10 would not have been obvious from the combination of Pope and Goldstein at least for the following reasons.

As explained in Appellant's Amendment filed February 5, 2003 and Appellant's Response filed August 21, 2003, Appellant's claimed invention defines a system, a controller, a remote control, and a method for controlling the system, which comprise unique combinations of features. These features include, *inter alia*, a remote control unit comprising a control-unit-sender for sending a control-signal for remotely controlling at least one device, and a controller-sender incorporated into a controller (which is coupled to a network and controls at least one device) for sending an interface to the remote control unit in response to a trigger-signal. Neither Pope nor Goldstein (applied alone or in any reasonable combination) teaches or suggests such a unique combination of features.

Pope discloses a cordless telephone 10 which includes memory 66 for storing appliance control codes (see *Id.*, col. 4, lines 17-33, and Fig. 2). Telephone 10 sends appropriate control codes stored in memory 66 to base unit 12, which in turn transfers the codes to appropriate appliances; thereby controlling the appliances' operation (see *id.*, col. 5, lines 14-32, and Fig 5). The Examiner acknowledges that Pope "is silent on teaching the controller[base station 12] sending an interface in response to a trigger-signal to the remote control [telephone 10]" (see final Office Action, pages 4 and 9).

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

The Examiner cites Pope at col. 4, lines 53-57, as allegedly teaching a remote control receiving information from a controller and storing the code in memory. Appellant respectfully disagrees.

The only relevant “controller” disclosed by Pope is base unit 12 (as noted by the Examiner). Pope does not disclose, teach or suggest that its telephone 10 receives any control information (e.g., control codes) from controller 12 for storage in memory 66. Instead, Pope discloses that telephone 10 can receive appliance control codes from remote controls provided with the appliances, “such as a television remote control” and store these codes in memory 66 (see id., col. 4, lines 52-57). In this regard, Pope discloses nothing more than that telephone 10 is capable of functioning as a conventional universal remote control (i.e., a learning remote control) (see Id., col. 4, lines 59-61).

Thus, Pope does not disclose, teach or even remotely suggest Appellant’s claimed combination of features which require a controller connected to a network sending an interface to a remote controller, and a remote controller receiving and storing the interface sent by this type of a controller (see Appellant’s independent claims 1, 7, 9 and 10).

The Examiner alleges that Goldstein supplies the Pope’s acknowledged deficiency (i.e., a controller which sends an interface in response to a trigger-signal) by describing a method of receiving the control codes that include requesting and receiving an interface from controller 6 through a bi-directional communication link (see final Office Action, page 3). In this regard, the

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

Examiner alleges that Goldstein's cable box 6 corresponds to a controller as recited in Appellant's independent claims 1, 7, 9 and 10. Appellant respectfully disagrees.

In fact, Goldstein's cable converter 6 has nothing to do with a controller which is coupled to a network and comprises a controller-generator for generating at least one device-signal destined for at least one device for controlling operation of said at least one device, as recited in Appellant's independent claims 1, 7, 9 and 10. That is, Goldstein's cable converter 6 does not generate any device signals for controlling any devices, i.e., it is nothing more than a conventional cable converter connected in a conventional manner to a source of cable programming, a TV and (optionally) a VCR (see, for example, Goldstein, col. 16, line 17 through col. 18, line 22, and Fig. 14).

Clearly, one skilled in the art would not have been motivated to substitute Pope's controller 12 with Goldstein's cable converter 6. Indeed, this is contrary to Pope's actual disclosure where one of the appliances controlled by controller 12 is a cable box 16 (see Pope, Fig. 1). Thus, considering the Pope reference as a whole (which, as the Examiner correctly notes, is the proper analysis), one skilled in the art would not be motivated to modify Pope by the teachings of Goldstein with regard to the operation of its "controllers".

Therefore, even if, assuming *arguendo*, a skilled artisan would have been motivated to incorporate Goldstein's design for a programmable remote control into Pope's cordless telephone 10, the only reasonable resulting combination would amount to nothing more than Pope's "cable 16" being replaced with Goldstein's cable converter 6. In this resulting

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

combination, Pope's base unit 12 would not be sending an interface to cordless telephone 10 in response to a trigger-signal. Instead, Pope's cordless telephone 10 would simply be programmed directly by cable box 16 to have the codes of cable box 16, rather than by a remote control unit provided with cable box 16 (see Pope, col. 4, lines 52-61). Thus, contrary to the Examiner's analysis, Goldstein does not supply the acknowledged deficiency of Pope.

On October 29, 2003, Appellant's representative conducted a personal interview with the Examiner and Examiner's Supervisor (see Interview Summary, Paper No. 12). The following is a Summary of Substance of the Interview.

During the personal interview, the Examiner and Examiner's Supervisor clarified how the combination of Pope and Goldstein is applied to Appellant's claimed invention. The Examiner's Supervisor explained that, in his view, Pope alone discloses essentially every feature recited in Appellant's claims 1-10 (specifically, Pope's base unit 12 allegedly corresponds to the claimed "controller," and handset 10 allegedly corresponds to the claimed "remote control"). The Examiner's Supervisor did acknowledge that Pope does not explicitly disclose that its base unit 12 sends interface information to handset 10, but alleged that such a modification would have been obvious in view of Goldstein's cable box/programmable remote control arrangement.

In particular, the Examiner Supervisor alleges that one skilled in the art would have been motivated to modify Pope's base unit 12 to transmit device infrared (IR) codes (i.e., interface information) to controller 10, in a manner disclosed by Goldstein with regard to its cable converter 6 and remote control device 5. In support of his position, the Examiner's Supervisor

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

argues that, since both Pope's base unit 12 and Goldstein's cable converter 6 are connected to a telephone network (see Pope, col. 3, line 29-35; see also Goldstein, Abstract and col. 12, lines 23-26), one skilled in the art would have been motivated to modify Pope's base unit 12 to receive interface information via telephone connection 34, and to send such information to controller 10.

Appellant's representative argued that such a modification is contrary to Pope's actual disclosure, where handset 10 transmits to base unit 12 nothing more than commands for controlling various devices connected to base unit 12. The only way disclosed by Pope for handset 10 to obtain device codes (i.e., interface information) is by receiving these codes from the remote controls of the devices (e.g., TV, VCR, etc) themselves. This teaches nothing more than conventional programming of a universal remote control (see Pope, col. 4, lines 52-61).

At the conclusion of the personal interview, no agreement was reached.

In view of the discussion which took place during the personal interview, it appears that the Examiner's obviousness rejection is based on a theory that Goldstein's cable box and Pope's base unit 12 are "interchangeable", allegedly because both are connected to a telephone line, and therefore, Pope's base unit 12 can be modified to download interface data from a telephone network in a manner of Goldstein's cable box. The Examiner then takes this reasoning a step further to conclude that, in view of such interchangeability, one skilled in the art would have been motivated further to modify Pope's base unit 12 to transmit this interface data to its handset 10, and to do so based on a trigger signal, as required by Appellant's independent claims 1, 7, 9

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

and 10. However, such reasoning is not supported by Pope or Goldstein, and is nothing more than impermissible hindsight based on Appellant's own disclosure.

In summary, Appellant's independent claims 1, 7, 9 and 10, as well as the dependent claims 2-6 and 8 (which incorporate all the novel and unobvious features of their base claims) would not have been obvious from any reasonable combination of Pope and Goldstein at least for the reasons set forth above.

2. Claims 3 and 5 would not have been obvious from the combination of Pope and Goldstein for the following additional reasons.

With regard to claim 3, which requires a telecommunication system, "wherein said trigger-signal comprises an identification-code for identifying a user", the Examiner alleges that Goldstein teaches such a feature at col. 4, lines 59-65 (see final Office Action, Paper No. 9, at page 5).

Goldstein discloses cable converter which "may be programmed to respond only to a specific universal remote control device" so that "[o]nly a remote control device which has an ID number verified by the cable TV converter will be able to control the cable TV converter" (Id., col. 4, lines 58-65). Nowhere does Goldstein disclose, teach or suggest that an ID number assigned to a remote control device somehow allows the cable TV converter to identify the user of the remote control device. That is, as explained in Appellant's specification, one of the exemplary, non-limiting advantages achieved by an identification-code for identifying a user is a form of parental control (see Appellant's specification, pages 15 and 16). Thus, Appellant's

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

claim 3 would not have been obvious from the combination of Pope and Goldstein for this additional reason.

With regard to claim 5, which requires a telecommunication system, where “ said controller comprises a controller-detector for detecting an interface-amendment, whereby said controller-sender is adapted for sending a request-signal destined for said remote control unit, and said control-unit-receiver is adapted for receiving said request-signal, whereby said control-unit-sender is adapted for sending said trigger-signal in response to said receiving of said request-signal”, the Examiner alleges that Goldstein teaches such a feature at col. 12, lines 23-27 (see final Office Action, Paper No. 9, at page 6). Appellant respectfully disagrees. In fact, Goldstein teaches nothing more than that data received from a remote origination facility by cable converter 6 may be transmitted to remote control 5. Such a generic data download feature does not in any way teach or suggest detecting interface amendments and sending request signal and trigger signal, as claimed in Appellant's claim 5, to effectively update a downloaded interface if an interface amendment is detected. Col. 12, lines 23-33 of Goldstein are reproduced below for reference:

The bidirectional communications link 30, 31 permits data that is received from the program origination facility to be transmitted from the cable converter 6 to the universal remote control 5. Thus, advertising messages, a complete operating system, infrared codes for operating the various equipment in the consumer's home, telephone numbers for initiating phone calls from the converter over the local area network, and icons for display on a touch-sensitive screen 68, as well as audio messaging, may all be received over the bidirectional communications link from a cable converter 6. (Id.)

APPELLANT'S BRIEF ON APPEAL
UNDER 37 C.F.R. § 1.192
U.S. Appln. No.: 09/616,910

Thus, Appellant's claim 3 would not have been obvious from the combination of Pope and Goldstein for this additional reason.

In summary, Appellant has invented a novel telecommunication system including a device controller with downloadable interface and remote control programmable to receive said interface, and a method for controlling the communication system, which would not have been obvious from the combination of Pope and Goldstein.

The present Brief on Appeal is being filed in triplicate. Please charge the fee required under 37 C.F.R. §1.192(a) and 1.17(c) to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge any additional required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Stan Torgovitsky
Registration No. 43,958

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 21, 2004

APPENDIX

CLAIMS 1-10 ON APPEAL:

1. Telecommunication system comprising:
 - a controller coupled to a network and comprising a controller-generator for generating at least one device-signal destined for at least one device for controlling operation of said at least one device;
 - a first device coupled to said controller and comprising a first device-receiver for receiving at least one device-signal;
 - a second device coupled to said controller and comprising a second device-receiver for receiving at least one device-signal; and
 - a remote control unit comprising a control-unit-sender for sending a control-signal for remotely controlling at least one device,wherein
 - said controller comprises:
 - a controller-sender for sending to said remote control unit an interface in response to a trigger-signal; and
 - a controller-receiver for receiving said trigger-signal, and
 - said remote control unit comprises:
 - a control-unit-receiver for receiving said interface; and
 - a control-unit-memory for storing said interface.
2. The telecommunication system according to claim 1, wherein said control-unit-sender is adapted for sending said trigger-signal.
3. The telecommunication system according to claim 2, wherein said trigger-signal comprises an identification-code for identifying a user.

4. The telecommunication system according to claim 1, wherein said trigger-signal comprises either at least a first code for indicating said first device or at least a second code for indicating said second device.

5. The telecommunication system according to claim 1, wherein:

- said controller comprises a controller-detector for detecting an interface-amendment, whereby said controller-sender is adapted for sending a request-signal destined for said remote control unit, and
- said control-unit-receiver is adapted for receiving said request-signal, whereby said control-unit-sender is adapted for sending said trigger-signal in response to said receiving of said request-signal.

6. The telecommunication system according to claim 1, wherein at least a part of a location in said control-unit-memory at which location said interface has been stored becomes overwritable in response to a further trigger-signal.

7. A controller to be coupled to a network and for use in a telecommunication system comprising a first device coupled to said controller and comprising a first device-receiver for receiving at least one device-signal for controlling operation of said at least one device, a second device coupled to said controller and comprising a second device-receiver for receiving at least one device-signal, and a remote control unit comprising a control-unit-sender for sending a control-signal for remotely controlling at least one device, said controller comprising:

- a controller-generator for generating at least one device-signal destined for at least one device;

- a controller-sender for sending an interface to said remote control unit in response to a trigger-signal; and

- a controller-receiver for receiving said trigger-signal.

8. The controller as claimed in claim 7, wherein said trigger-signal comprises either at least a first code for indicating said first device or at least a second code for indicating said second device.

9. A remote control unit for remotely controlling at least one device and for use in a telecommunication system comprising a controller to be coupled to a network and comprising a controller-generator for generating at least one device-signal destined for at least one device for controlling operation of said at least one device, first device coupled to said controller and comprising a first device-receiver for receiving at least one device-signal, a second device coupled to said controller and comprising a second device-receiver for receiving at least one device-signal, said remote control unit comprising:

- a control-unit-sender for sending a control-signal for remotely controlling at least one device;

- a control-unit-receiver for receiving an interface originating from said controller; and

- a control-unit-memory for storing said interface.

10. A method for controlling a telecommunication system comprising a controller to be coupled to a network and comprising a controller-generator for generating at least one device-signal destined for at least one device for controlling operation of said at least one device, a first device coupled to said controller and comprising a first device-receiver for receiving at least one device-signal, a second device coupled to said controller and comprising a second device-receiver for receiving at least one device-signal, and a remote control unit comprising a control-unit-sender for sending a control-signal for remotely controlling at least one device, said method comprising:

- sending an interface from said controller to said remote control unit in response to a trigger-signal;

- receiving said interface; and

- storing said interface at said remote control unit.